



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Systems Management American Corporation

File: B-224229

Date: November 10, 1986

DIGEST

1. Protest that offeror's proposal was improperly eliminated from the competitive range is rendered academic as the result of the solicitation's cancellation. The General Accounting Office will not retain jurisdiction of such a protest, despite the protester's request to do so, when the solicitation has been canceled.

2. A protester's speculation as to an agency's future course of action in satisfying a requirement is not a valid basis for the General Accounting Office to consider the merits of the protest.

3. Where a protest is dismissed, there is no decision on the merits, and therefore, no basis on which protest or proposal preparation costs may be recovered.

DECISION

Systems Management American Corporation (SMA) protests its elimination from the competitive range under request for proposals (RFP) No. N00189-85-R-0289 for software analyst services. We dismiss the protest and deny the protester's claim for protest and proposal preparation costs.

The Navy has advised us that the protested solicitation has been canceled. The Navy states that it took this action because a detailed review of the specifications, conducted as a result of the protest, revealed serious deficiencies in the specifications. The agency argues that we therefore should dismiss the protest as academic.

SMA does not dispute the agency's justification for canceling the solicitation. The protester argues, however, that we should not dismiss the protest as academic because the agency has not denied the protest allegations. The protester asserts that it has shown that its exclusion from the competitive range was improper, and that the case therefore is "ripe" for a decision by our Office. We find no merit to this contention.


Generally, when a solicitation is canceled, a protest against an offeror's elimination from the competitive range becomes academic because no award will be made. See Events Analysis, Inc., B-220080, Oct. 29, 1985, 85-2 CPD ¶ 483. Our bid protest authority is applicable only to the award or proposed award of a contract. See 31 U.S.C. § 3551 (Supp. III 1985). Therefore, where, as here, as the result of a solicitation's cancellation no award will be made, we will not retain jurisdiction of a protest. See Events Analysis, Inc., B-220080, supra.

SMA also asserts that the Navy has not decided to resolicit the work and may proceed by some means which would exclude competition. We note, however, that the agency's justification for canceling the solicitation states that a new statement of work is being developed. In any event, a protest alleging that an agency may conduct a prospective resolicitation improperly, or challenging the possibility of a future sole-source award, is premature and will not be considered. See Information Marketing International--Reconsideration, B-220667.2, Nov. 20, 1985, 85-2 CPD ¶ 577; Aviation Enterprises, Inc.--Reconsideration, B-215662.4, Dec. 3, 1984, 84-2 CPD ¶ 603. A protester's speculation as to the agency's future course of action in satisfying a requirement is not a valid basis for our Office to consider the merits of a protest. See Earth Resources Consultants, Inc.--Request for Reconsideration, B-220559.2, Nov. 26, 1985, 85-2 CPD ¶ 608.

Accordingly, we dismiss the protest.

We also deny SMA's request for recovery of the costs of pursuing the protest and for proposal preparation costs. Our authority to allow the recovery of such costs is predicated upon a determination by our Office that a solicitation, proposed award, or award of a contract does not comply with a statute or regulation. See 31 U.S.C. § 3554(c)(1) (Supp. III 1985). Where, as here, a protest is dismissed, there is no decision on the merits and thus, no basis for award of costs. See Bru Construction Co., B-221383.2, May 27, 1986, 86-1 CPD 487.

The protest is dismissed and the claim is denied.


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